

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

NANCY DREW SUDERS, : CIVIL NO. 1:CV-00-1655
PLAINTIFF :
 : (JUDGE RAMBO)
V. :
 : (ELECTRONICALLY FILED)
ERIC D. EASTON, WILLIAM D. :
BAKER, ERIC B. PRENDERGAST, :
VIRGINIA SMITH ELLIOTT and THE :
PENNSYLVANIA STATE POLICE, :
DEFENDANTS :

PLAINTIFF'S MOTION RESPECTFULLY REQUESTING THE HONORABLE SYLVIA
RAMBO TO RECONSIDER HER STATEMENT OF LAW AS TO THE POINTS THAT
HAVE TO BE PROVEN, WHICH SHE MADE
DURING THE PRE-TRIAL CONFERENCE

The Plaintiff, Nancy Drew Suders, by her counsel, Samuel C. Stretton, Esquire, respectfully requests this Honorable Court reconsider certain statements on the law made at the pre-trial conference for the following reasons:

1. During the pre-trial conference held on February 18, 2005, the Honorable Sylvia Rambo discussed what had to be proven. Judge Rambo then discussed the Supreme Court decision [Pennsylvania State Police v. Suders, ____ U.S. ____, 124 Sup. Ct. 2342 (2004)]. Judge Rambo referenced apparently page 2355 of that decision and, if present counsel remembers correctly, made statements to the effect that there has to be proven an official act and that the constructive discharge was not an official act. Present counsel understood that to mean that

without proving an official act, the case would not survive a demurrer (Federal Rules of Civil Procedure, Rule 50).

2. Present counsel respectfully asks this Honorable Court reconsider its initial statement of the law and incorporates by reference the attached short brief in support of the Plaintiff's position that this Honorable Court has misinterpreted the law and the decision of the United States Supreme Court in Pennsylvania State Police v. Suders, ____ U.S. ____, 124 Sup. Ct. 2342 (2004).

WHEREFORE, the Plaintiff, Nancy Drew Suders, by her counsel, Samuel C. Stretton, Esquire and Donald Bailey, Esquire, respectfully requests this Honorable Court reconsider its initial statement of the law as noted during the pre-trial conference.

Respectfully submitted,

s/Samuel C. Stretton
Samuel C. Stretton, Esquire
Attorney for Plaintiff,
Nancy Drew Suders
301 South High Street
P.O. Box 3231
West Chester, PA 19381-3231
(610) 696-4243
Attorney I.D. No. 18491

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

NANCY DREW SUDERS, : CIVIL NO. 1:CV-00-1655
PLAINTIFF :
 : (JUDGE RAMBO)
V. :
 : (ELECTRONICALLY FILED)
ERIC D. EASTON, WILLIAM D. :
BAKER, ERIC B. PRENDERGAST, :
VIRGINIA SMITH ELLIOTT and THE :
PENNSYLVANIA STATE POLICE, :
DEFENDANTS :

CERTIFICATE OF SERVICE

I hereby certify I am this date serving a copy of the
Plaintiff's Motion Respectfully Requesting the Honorable Sylvia
Rambo to Reconsider in the captioned matter, upon the following
persons in the manner indicated below.

Service by First Class Mail addressed as follows:

1. Sarah Yerger, Esquire
Senior Attorney General
Attorney General's Office
15th Floor Strawberry Square
Harrisburg, PA 17120
2. Donald Bailey, Esquire
4311 North Sixth Street
Harrisburg, PA 17110

02/21/05
Date

Respectfully submitted,
s/Samuel C. Stretton
Samuel C. Stretton, Esquire
Attorney for Plaintiff,
Nancy Drew Suders
301 S. High St., P.O. Box 3231
West Chester, PA 19381-3231
(610) 696-4243
Attorney I.D. No. 18491